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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

DOUG MICHIE and JUSTIN DYER,  
individually and on behalf of other persons  
similarly situated,

Plaintiffs,

v.

THE TRADE DESK, INC.,

Defendant.

Case No. 3:25-cv-02889-CRB

**DEFENDANT THE TRADE DESK, INC.'S  
RESPONSE TO PLAINTIFFS' JOINT  
MOTION TO CONSOLIDATE CASES  
PURSUANT TO FED. R. CIV. P. 42(A)**

Hearing Date: July 11, 2025  
Time: 10:00 a.m.  
Courtroom 6 – 17th Floor

Judge: Hon. Charles R. Breyer

1 In response to Plaintiffs' Joint Motion to Consolidate ("Motion"), Defendant The Trade  
2 Desk, Inc. ("TTD") opposes only Plaintiffs' proposed date for an initial Case Management  
3 Conference ("CMC") (28 days after the Consolidated Complaint is filed), and the related deadline  
4 for counsel's Rule 26(f) conference (21 days before the CMC, *i.e.*, one week after a Consolidated  
5 Complaint is filed). TTD does not oppose consolidation under Federal Rule of Civil Procedure  
6 42(a); agrees that the currently scheduled CMCs in the related cases *Michie, et al. v. The Trade*  
7 *Desk, Inc.*, No. 3:25-cv-2889-CRB (N.D. Cal.), *Hernandez-Mendoza, et al. v. The Trade Desk,*  
8 *Inc.*, No. 3:25-cv- 2923-CRB (N.D. Cal.), and *Turner v. The Trade Desk Inc.*, No. 3:25-cv-3136-  
9 CRB (N.D. Cal.) (the "Related Cases") should be vacated in light of the Motion to Consolidate;  
10 and agrees to the 30-day deadline to file the Consolidated Complaint, the 45-day deadline to  
11 respond, and the briefing schedule set forth in Plaintiffs' Motion. *See* Motion, p. 5 and n.1.

12  
13  
14 TTD requests that the Court defer setting a CMC until after TTD responds to the  
15 Consolidated Complaint. This is warranted for several reasons. *First*, it is justified by the  
16 anticipated complexity of the Consolidated Complaint. The complaints in the Related Cases are  
17 lengthy and elaborate. TTD anticipates that the Consolidated Complaint will be no less so, and  
18 that it may include new allegations, theories and claims. TTD will need time to assess the  
19 Consolidated Complaint before being in a position to substantively discuss the nature and basis of  
20 the claims and defenses, initial disclosures, a discovery plan, and the other matters required under  
21 Rule 26(f). TTD's proposed timing would allow for this.

22  
23 *Second*, TTD's response to the Consolidated Complaint will likely be a motion to dismiss  
24 that could substantially alter the scope of this case, if not dispose of it entirely. This would have a  
25 substantial impact on the substance of the parties' discussions under Rule 26(f). Conducting a 26(f)  
26 conference while such a motion is pending, and certainly before such a motion is filed, would be  
27 inefficient, particularly because it might be mooted by such a motion.  
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1           *Third*, deferring scheduling a CMC at least until after TTD responds to a Consolidated  
2 Complaint is in keeping with the approach used by courts in this district, which routinely wait to  
3 hold initial CMCs until after a *ruling* on defendants’ motions to dismiss. *See, e.g., Hazel et al v.*  
4 *Prudential Financial, Inc. et al.*, 3:22-cv-07465-CRB (N.D. Cal.) (holding the initial CMC after  
5 ruling on defendants’ motion to dismiss); *In re Sunrun Inc. Securities Litig.*, No. 17-CV-02537-  
6 VC, 2018 WL 10323335, at \*2 (N.D. Cal. July 19, 2018) (“The initial case management  
7 conference is vacated and will be rescheduled if the next iteration of the complaint survives a  
8 motion to dismiss.”); *Gonzalez v. Mazda Motor Corp.*, No. 16-CV-02087-MMC, 2017 WL  
9 11897229, at \*2 (N.D. Cal. Feb. 9, 2017) (noting that “the Initial Case Management Conference”  
10 had been “previously vacated in light of the then-pending motion to dismiss”).  
11

12           *Fourth*, until Plaintiffs’ motion to appoint interim class counsel (Dkt. 41) is decided, there  
13 will be ambiguity regarding Plaintiffs’ counsel’s respective roles, making a Rule 26(f) conference  
14 unnecessarily challenging.  
15

16           TTD understands that Plaintiffs’ counsel would agree to an additional two weeks for the  
17 CMC and Rule 26(f) conference, but no more. This would not address TTD’s concerns, nor would  
18 it be an efficient solution. Accordingly, and for the reasons discussed above, TTD requests that if  
19 the Court consolidates the Related Cases, it defer scheduling a CMC until after TTD responds to  
20 the Consolidated Complaint.  
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1 DATED: May 29, 2025

2  
3 **PERKINS COIE LLP**

4 By: /s/ Susan Fahringer

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